

367.4917 Penalties -- Payment and apportionment of civil penalties -- Enforcement by Public Service Commission -- Written agreement form -- Administrative regulations. (Effective January 1, 2022)

- (1) An excavator who fails to comply with any provision of KRS 367.4911, or an operator who fails to comply with any provision of KRS 367.4909 may be subject to a civil penalty of two hundred fifty dollars (\$250) for the first violation, no more than one thousand dollars (\$1,000) for the second violation and no more than three thousand dollars (\$3,000) for the third and any subsequent violation. A violation shall be considered a first violation under this subsection if more than three hundred sixty-five (365) days have elapsed since the last incident attributable to a person in violation of KRS 367.4909 or 367.4911. If a person commits a violation in the course and scope of employment, the penalties shall be imposed on the employer.
- (2) A protection notification center that fails to comply with any provision of KRS 367.4913 shall be subject to a civil penalty of one thousand dollars (\$1,000) for each violation.
- (3) A person that knowingly provides false notice to a utility notification center of an emergency as defined in KRS 367.4903 shall be subject to a civil penalty of one thousand dollars (\$1,000) for each violation.
- (4) Any person who violates any provision of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, that involves damage to a facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a civil penalty, in addition to the civil penalty in subsection (1) of this section, not to exceed one thousand dollars (\$1,000) for each violation. The penalties of this subsection are not in conflict with and are in addition to civil damages for personal injury or property damage.
- (5)
 - (a) Except as provided in subsection (6) of this section, all civil penalties recovered for a violation of this section shall be paid to the general fund of the state, county, city, or fire protection agency which issued the citation.
 - (b) In the event that more than one (1) government agency was involved, the court shall direct an apportionment of the civil penalties.
 - (c) Failure to comply with the provisions of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, may be determined at the conclusion of an investigation and shall be based on evidence available to state, county, or city officials, law enforcement, or fire protection agencies which issue the citation.
- (6) The commission shall have statewide authority to enforce and assess civil penalties provided for in this section and to seek injunctive relief for any violation that results in damage to an underground facility used to transport gas or hazardous liquid subject to the federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. Once the commission initiates an investigation or undertakes an enforcement action against a person for an alleged violation, no other state, county, city, or fire protection agency shall initiate or continue any enforcement action against the person for the same alleged violation. Any action to recover penalties assessed pursuant to this subsection shall be brought in the Franklin Circuit Court. All penalties recovered by the commission shall be paid into the

State Treasury and credited to the account of the commission.

- (7) The commission shall make available on its Web site a written agreement form for an operator and an excavator to agree to a date or series of dates by which time the locate request must be completed if different from those dates established in KRS 367.4909. The form shall contain but is not limited to the parties' names, the locate request number, the date requested, and the location. The parties shall make the executed agreement form available upon request of the commission.
- (8) The commission may promulgate administrative regulations in accordance with KRS Chapter 13A to enforce the Underground Facility Damage Prevention Act of 1994. The commission shall exercise its authority under the Underground Facility Damage Prevention Act of 1994 in accordance with the rules and procedures set forth in KRS Chapter 278 and all applicable administrative regulations promulgated by the commission.

Effective: January 1, 2022

History: Amended 2021 Ky. Acts ch. 80, sec. 5, effective January 1, 2022. -- Amended 2018 Ky. Acts ch. 70, sec. 5, effective July 14, 2018. -- Amended 2015 Ky. Acts ch. 31, sec. 5, effective June 24, 2015. -- Amended 2014 Ky. Acts ch. 100, sec. 5, effective July 15, 2014; and ch. 116, sec. 1, effective July 15, 2014. -- Amended 2012 Ky. Acts ch. 137, sec. 7, effective July 12, 2012. -- Amended 2008 Ky. Acts ch. 180, sec. 5, effective July 15, 2008. -- Amended 2000 Ky. Acts ch. 222, sec. 6, effective July 14, 2000. -- Created 1994 Ky. Acts ch. 425, sec. 9, effective January 1, 1995.

Legislative Research Commission Note (7/15/2014). This statute was amended by 2014 Ky. Acts chs. 100 and 116. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 116, which was last enacted by the General Assembly, prevails under KRS 446.250.